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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,944	06/04/2001	Ian Copeman	2657.2012-001	3399
21005	7590	05/04/2006	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.			HUYNH, SON P	
530 VIRGINIA ROAD				
P.O. BOX 9133			ART UNIT	
CONCORD, MA 01742-9133			2623	
			PAPER NUMBER	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/873,944	<b>Applicant(s)</b> COPEMAN ET AL.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/21/2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Picco does not disclose transmission schedule that specifies when the network device is to receive the one or more promotions (page 9, paragraph 1-2).

In response, the Examiner relies either on Birdwell reference or ATVEF reference for the teaching of transmission schedule (announcements) that specifies when the network device is to receive data files/content.

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For the reason given above, rejections on claims 1-32 are analyzed as discussed below.

### ***Claim Objections***

3. Claims 6-8, 14-16, 19 and 32 are objected to because of the following informalities:

Claims 6-8, line 1 recite the limitation "the schedule information" should be replaced as – a schedule information—

Claims 14-16, line 1 and claim 19, line 2, recite the limitation "the membership criteria" should be replaced as – a membership criteria—

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al. (US 6,029,045) in view of Advanced Television Enhancement Forum Specification (herein after referred to as ATVEF).

Regarding claim 1, Picco discloses a system for targeting promotions (local contents) to at least one network device (i.e. set top box 120 – figures 4, 5, 7, 8), comprising:

a scheduler (148) which generates a schedule for transmission of promotion (transmission of local content at predetermined time i.e., 3 A.M – col. 3, lines 15-30) and displaying of promotions on the network device (displaying the local content at the receiving to the viewer – col. 6, lines 35-41; col. 6, line 56-col. 7, line 32).

a promotion agents (CPU and other devices such as tuners, decoder, etc. at set top box – figure 8) that receives a promotion schedule from the scheduler, wherein the promotion agent processes the schedule information for the display of promotions (col. 10, lines 1-20; col. 11, lines 18-67; col. 12, lines 23-57). However, Picco does not specifically disclose generating transmission schedule that specifies when the network device is to receive the one or more local content/promotions and receiver receives the transmission schedule.

ATVEF discloses content generator generates announcements for transmission of the enhancement content and transmits the announcement to the receivers. The announcement comprises information such as content type, content length, content time, content location, etc. that specifies the enhancement content, and the enhancement content comprises audio data, video data, advertisement (page 11,

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paragraph 6, page 13, section 3.1.1-page 16; page 25, paragraph 5-page 33, paragraph 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the enhancement content comprises promotion to attract/promote the user of watching the program. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Picco to use the teaching as taught by ATVEF so that the receivers can adequately judge whether or not they can successfully play an enhancement from beginning to end (page 15, first paragraph).

Regarding claim 2, Picco further discloses the local content database (transmitter 144, combiner 146, Mux 140, database 146 – col. 6, lines 57-67; figure 4) reads on the claimed “bulk manager server”.

Regarding claim 3, Picco further discloses bulk manager server stores promotions to be scheduled for display on the network device (i.e. set top box) – figure 4, col. 6, line 57-col. 7, line 32).

Regarding claim 4, Picco further discloses the bulk manager server downloads the promotions to the bulk manager agent (local content database downloads local content to storage devices at the set top box – col. 7, lines 55-67; col. 9, lines 1-67).

Regarding claim 5, Picco further discloses the scheduler sends schedule information (i.e. instruction, control data, local content spot) to the promotional agent (CPU and

other devices such as tuners, decoder, etc. at set top box – figure 8) which processes the schedule information and transmits the processed scheduled information to the bulk manger agent (col. 7, line 33-col. 8, line 22, col. 10, lines 1-33).

Regarding claim 6, Picco further discloses the schedule information includes a time schedule (i.e., time of spot local content or insert time) for displaying the promotions (col. 10, lines 1-33).

Regarding claim 7, Picco further discloses the schedule information includes specified promotions (target local content i.e., automobile advertisement) for displaying the promotions (col. 7, lines 55-67; col. 10, lines 1-33).

Regarding claim 8, Picco further discloses schedule information includes locations (i.e. inserting spots or geographical region – col. 7, line 55-col. 8, line 22) for displaying the promotions.

Regarding claim 9, Picco further discloses a bulk manager server that retrieves the promotions from a database (database 146 or database of local content source 108 – figure 4, col. 6, line 57-col. 7, line 32).

Regarding claim 10, Picco further discloses the promotions are stored in a cache (i.e. buffer in the splicer- col. 11, line 50-col. 12, line 23).

Regarding claim 11, Picco further discloses the scheduler instructs the bulk manager server to retrieve the promotions from the database and send the promotions to designated network devices (scheduler determines which local content is going to be retrieved and combined by the combiner 140 and sends the a predetermined geographic region or devices – col. 7, line 9-col. 8, line 22).

Regarding claim 12, Picco further discloses the promotions are displayed at a designated time (i.e. insert time or local content spots – col. 6, lines 60-67; col. 10, lines 1-33).

Regarding claim 13, Picco further discloses the local content is inserted and displayed based on when the user saw which programs and how many times the user watched a particular program (col. 11, lines 9-17). Inherently, the promotions (local contents) are displayed when the viewers watch designated shows (for example, displays promotion on the particular show that the user watched many times).

Regarding claim 14, Picco further discloses the membership criteria (local content profile) are based on demographic of the viewers (i.e., use statistics, preferences of viewer) who use the network device (col. 3, lines 7-13; col. 6, lines 59-col. 7, line 7).



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Regarding claim 15, Picco further discloses the membership criteria (local content profile) are based on geographic locations of the viewers who use the network device (col. 6, lines 59-col. 7, line 7).

Regarding claim 16, Picco further discloses the membership criteria are based on channel and promotion history data (col. 6, line 59-col. 7, line 67).

Regarding claim 17, Picco further discloses the scheduler schedules the promotions for delivery to specific promotion groups (i.e., group in particular geographic region of the United States – col. 7, line 35-col. 8, line 22).

Regarding claim 18, Picco further discloses the promotion groups are collections of network devices (i.e. based on user preferences received from the set top boxes – figures 4, 8, col. 3, lines 5-50).

Regarding claim 19, Picco further discloses the promotion groups are based on matching the membership criteria (local content profile) to the viewership profile (viewer preferences/statistics – col. 6, line 16-col. 8, line 23).

Regarding claim 20, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1.

Regarding claims 21 and 23, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 3, and are analyzed as discussed with respect to the rejection of claim 3.

Regarding claims 24-25, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 9, and are analyzed as discussed with respect to the rejection of claim 9.

Regarding claims 22, 26-28, 30, 32, the limitations of the method as claimed correspond to the limitations of the system as claimed in claims 4,10,12, 13, 14, 19 and are analyzed as discussed with respect to the rejection of claims 4,10,12, 13, 14, 19.

Regarding claim 29, Picco further discloses the program includes a trigger (instruction/control data in inserting spot) in the broadcast (col. 8, lines 6-22).

Regarding claim 31, Picco further discloses only particular user should stored the particular content (i.e., a particular subscriber only – col. 7, lines 56-62; col. 8, lines 6-7). Thus, the promotions are retrieved across a unicast medium.

6. Claims 1-32 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al. (US 6,029,045) in view of Birdwell et al. (US 6,108,706).

Regarding claim 1, Picco discloses a system for targeting promotions (local contents) to at least one network device (i.e. set top box 120 – figures 4, 5, 7, 8), comprising:

a scheduler (148) which generates a schedule for transmission of promotion (transmission of local content at predetermined time i.e., 3 A.M – col. 3, lines 15-30) and displaying of promotions on the network device (displaying the local content at the receiving to the viewer – col. 6, lines 35-41; col. 6, line 56-col. 7, line 32).

a promotion agents (CPU and other devices such as tuners, decoder, etc. at set top box – figure 8) that receives a promotion schedule from the scheduler, wherein the promotion agent processes the schedule information for the display of promotions (col. 10, lines 1-20; col. 11, lines 18-67; col. 12, lines 23-57). However, Picco does not specifically disclose generating transmission schedule that specifies when the network device is to receive the one or more local content/promotions and receiver receives the transmission schedule.

Birdwell discloses a scheduler which generates a transmission schedule for transmission of content/data files to the network (announcement server generates announcements for upcoming transmissions to the receiver –col. 1, line 51-col. 2, line 18). The transmission schedule specifies when the network device is to receive the content/data (the announcement specifies a time of transmission, broadcast locator, an identity of the content server that will server the data for the transmission, a broadcast protocol, a subject matter of the data transmission, a length of the transmission). It would have been obvious to one of ordinary skill in the art at the time the invention was

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made that the transmission data comprises promotion to attract/promote the user of watching the program. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Picco to use the teaching as taught by Birdwell so that the receivers can adequately judge whether or not they can successfully play an enhancement from beginning to end, or to identify to location of upcoming data.

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Regarding claim 5, Picco further discloses the scheduler sends schedule information (i.e. instruction, control data, local content spot) to the promotional agent (CPU and other devices such as tuners, decoder, etc. at set top box – figure 8) which processes

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the schedule information and transmits the processed scheduled information to the bulk manger agent (col. 7, line 33-col. 8, line 22, col. 10, lines 1-33).

Regarding claim 6, Picco further discloses the schedule information includes a time schedule (i.e., time of spot local content or insert time) for displaying the promotions (col. 10, lines 1-33).

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Regarding claims 24-25, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 9, and are analyzed as discussed with respect to the rejection of claim 9.

Regarding claims 22, 26-28, 30, 32, the limitations of the method as claimed correspond to the limitations of the system as claimed in claims 4,10,12, 13, 14, 19 and are analyzed as discussed with respect to the rejection of claims 4,10,12, 13, 14, 19.

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### ***Conclusion***



7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reynolds et al. (US 2001/0037500) discloses system and method for local meta data insertion. Also see paragraph 0008.

Feinleib et al. (US 2005/0028195) discloses system and method for synchronizing streaming content with enhancing content using pre-announced triggers.

Wright et al. (US 6,442,598) discloses system and method for delivering web content over a broadcast medium.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**It is noted that Group Art Unit 2611 has been changed to Group Art Unit 2623**

SPH

April 28, 2006



**HAITRAN  
PRIMARY EXAMINER**